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Supreme Court of the United States

OCTOBER TERM, 1933.

No. 370.

HOME BUILDING AND LOAN ASSOCIATION, A CORPORATION,
Appellant,

vs.

JOHN H. BLAISDELL AND ROSELLA BLAISDELL, HIS WIFE,
Appellees.

ON APPEAL FROM THE SUPREME COURT OF THE STATE OF MINNESOTA.

APPELLANT'S BRIEF.

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Appellant,

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JOHN H. BLAISDELL AND ROSELLA BLAISDELL, HIS WIFE,
Appellees.

APPELLANT'S BRIEF ON APPEAL.

I.

OPINIONS OF COURT BELOW.

Two opinions of the Supreme Court of the State of Minnesota are involved in this appeal. The first is the opinion on the merits rendered on July 7th, 1933, and reported *sub nom Blaisdell vs. Home Building and Loan Association,* in ... Minn. ..., 249 N. W. 334; it is also set out verbatim in the Record (18 to 42). The second and final opinion was rendered on July 2nd, 1933, and is a *per curiam* decision of one short paragraph only, which affirms the judgment entered in the trial court adverse to this appellant. This second opinion, also, is reported, under the same title, in ... Minn. ..., 249 N. W. 893 (2), and is set out verbatim in the printed record (p. 51).

II.

JURISDICTION.

We submit that this Court has jurisdiction in the premises under subdivision (a) of Section 237 of the Judicial Code. But in order to save space and time of this Court, nothing further on this matter will be presented at this point because the entire question of jurisdiction is treated at length in paragraphs A, B and E, in the Statement of Jurisdiction printed separately and filed with the Clerk of this Court.

III.

STATEMENT OF CASE.

In 1926, the appellant loaned the sum of thirty-eight hundred dollars ($3,800.00) to the appellees, and to secure the same, the appellees executed and delivered to the appellant a mortgage (set out in full, R. 7 to 11) upon certain real estate in the City of Minneapolis, Minnesota. The property was improved by a large fourteen (14) room house and a garage. The appellees occupied three rooms of said house and rented out the remaining eleven (11) rooms (R. 47).

The mortgage was in form, that commonly used in Minnesota, and contained the usual provisions for foreclosure by advertisement. After acknowledging the receipt of thirty-eight hundred ($3,800.00) dollars, the usual pledge of the premises involved was made to secure the debt, and the mortgage further provided (a) that the mortgagors covenanted to pay the debt, the taxes and the insurance on the premises, (b) that if any of the debt or interest or taxes or insurance remained unpaid when due for a period of two months, that then the payment of the whole debt should be accelerated

and would immediately be due and payable, (c) that in case of default the mortgagors authorized and empowered the mortgagees "to sell the hereby granted premises at public auction and convey the same to the purchaser in *fee simple*, agreeable to the statute in such case made and provided."

Thereafter, the appellees defaulted in the payments required under the contract, and pursuant to the terms of the contract and the statutes hereinafter mentioned, the mortgage was duly foreclosed under the power of sale by advertisement expressly provided in the contract. Appellant bid and paid the full amount of the mortgage debt, approximately thirty-seven hundred dollars ($3,700.00). This was a non-judicial or extra-judicial sale. No question of a deficiency judgment is involved (R. 46, 47). The sale was held on May 2nd, 1932, and under the existing law of the state the period of redemption would have expired on May 2nd, 1933, on which date the appellant would have become the owner in fee and entitled to the immediate possession of the real estate involved.

On April 18th, 1933, fourteen days before this redemption period expired, the Minnesota Legislature passed Chapter 339 of the Session Laws for 1933 and under it the following procedure was had with reference to the mortgage here involved:

The appellees presented to the District Court of Hennepin County their notice of motion and petition which is set forth in the record (1 to 5), in which petition they allege the execution of the above mortgage, the foreclosure as above stated, that the property exceeds in value the amount of the encumbrance, that the time to redeem therefrom will expire on May 2nd, 1933, and pray the court to make its order extending the period of redemption pursuant to said Chapter 339, and fixing the terms for such extension.

On the hearing and trial of this application, the appellant objected to the introduction of any evidence thereunder on the ground that the statute violated the contract clause, due process clause and the equal protection clause of the United States Constitution and similar provisions in the Constitution of the State of Minnesota (R. 5). The objection was sustained and the trial court ordered the proceeding dismissed (R. 6, 7). After a motion for a new trial by appellees (R. 12) had been denied by the trial court (R. 13), they appealed (R. 18) to the State Supreme Court of Minnesota, which thereupon reversed the trial court and held the statute, Chapter 339, constitutional (R. 18 to 42). This decision was filed July 7th, 1933, is reported in 249 Northwestern 384, and is set forth in full in the record (R. *Id.*).

The case was sent back to the trial court for trial and was tried in July, 1933. On this trial the appellants again urged that the law, Chapter 339, was in conflict with the provisions of the United States Constitution in the three respects previously urged (R. 42 to 44). These objections were overruled (R. 43, 44) and the trial resulted in the judgment and decree of the trial court (R. 49, 50). By this judgment the trial court ordered that the time to redeem from said foreclosure sale be extended and did extend the same to May 1st, 1935, upon the payment by the appellees of the sum of forty dollars ($40.00) per month to the appellants during said period, but the court, being advised that the case would be appealed, specifically provided that all such payments were to be made to the Clerk of the Court, to be held by him pending the final determination of this case (R. 50). From this judgment of the trial court the appellants appealed to the Supreme Court of the State of Minnesota, which is the highest court of the state, on the grounds that the statute under which the judgment and decree was

made was unconstitutional in the respects hereinbefore stated.

July 27th, 1933, the Supreme Court of Minnesota affirmed this judgment, as reported in 249 Northwestern, page 893 (R. 51), again holding the statute constitutional. From this final judgment of the highest court of the State of Minnesota this appeal was taken (R. 51).

We invite the attention of the Court to the fact that the property involved herein is not a homestead in the ordinary sense of the word, that is, the private dwelling house of a single family (R. 47). This matter is here noted to anticipate any argument which the appellees may advance on the ground that their *homestead* is involved, and that the Act is intended primarily to protect them and all other owners of mortgaged homesteads. The attention of this Court is invited to the decision of the Supreme Court of Minnesota in *Grace vs. Lichtscheidl,* ... Minn. ..., 249 N. W. 672, announced with the decision in the case at bar. In the former case, the court *held* squarely and expressly that the Act was not so designed, and that it applied *indiscriminately* to *all* real estate. This would include vacant, unimproved, agricultural or urban property, and whether used for purposes of residence, investment or speculation.

The findings of fact by the trial court, with the exception of the question of the present value of the premises, were based on stipulation of counsel, and, therefore, are not now questioned. Nor is the trial court's determination of the present rental value questioned by the appellant, and it cannot be questioned by the appellees because they have not appealed from the judgment entered pursuant thereto.

IV.

SPECIFICATION OF ERRORS.

1. The Supreme Court of Minnesota erred in affirming the judgment entered in the trial court, and in sustaining the validity of Chapter 339 of the Laws of Minnesota, 1933, against the contention by appellant that the same is repugnant to the contract clause, Art. 1, Sec. 10, of the United States Constitution.

2. The Supreme Court of Minnesota erred in affirming the judgment entered in the trial court, and in sustaining the validity of Chapter 339 of the Laws of Minnesota, 1933, against the contention by appellant that the same is repugnant to the due process clause of Amendment XIV, of the United States Constitution.

3. The Supreme Court of Minnesota erred in affirming the judgment entered in the trial court and in sustaining the validity of Chapter 339 of the Laws of Minnesota, 1933, against the contention by appellant that the same is repugnant to the equal protection of the laws clause of Amendment XIV, of the United States Constitution.

V.

ARGUMENT.

Summary of Argument.

Appellant claims that Chapter 339, Laws of Minnesota, 1933, page 514, is unconstitutional under the Federal Constitution, as set out in the preceding paragraph, par. IV, because: 1. The Act deprives appellant of its rights under a lawful, subsisting, private mortgage contract (a) by changing arbitrarily the terms thereof over appellant's objection and to its detriment, and (b) by depriving appellant of its options and remedies under the contract, which, at the time the contract was executed, were contemplated by the parties, were freely given by the appellees, were the options and remedies usual in such transactions, and were valid in all things and authorized by the Laws of the State of Minnesota. 2. The Act deprives appellant of its property without due process of law for the reasons just mentioned, and because the possession and use of its property is thus arbitrarily withheld from May 2nd, 1933, until May 1st, 1935. 3. The Act denies appellant the equal protection of the laws as follows: The Act is designed and operates primarily to protect the ownership of real property, and the existence of such property is the basis for discriminating between creditors. That is, for designating those creditors who come within the Act and those who do not come within the Act, depending on whether or not they can or cannot subject real estate of their debtors to the payment of the debt. The Act applies only in those cases where creditors can proceed against the debtor's real estate, either because such creditors have taken, as security for the debt, a mortgage on the real property, or can otherwise proceed against the real prop-

erty by levy, execution or attachment. The Act operates differently on creditors who can thus reach the real property on the basis of whether or not such proceedings are founded on a mortgage, or not founded on a mortgage, but all such creditors are subjected to the Act. On the other hand, creditors who cannot proceed against the real estate of their debtors, either because such creditors have taken no mortgage or because they cannot otherwise proceed directly against the real property, are not subjected to the Act. Thus the fact that the debtor's real property may or may not be seized is the sole basis for including or excluding creditors within the operation of the Act. The appellant having taken a mortgage on the property and, therefore, having the right to look to the property to enforce payment of his debt, is subjected to the Act, while other creditors who have not taken mortgages or who cannot otherwise proceed against the real property of the debtor, are not subjected to the Act.

Real Estate Law of Minnesota.

Before proceeding with the argument on the constitutional questions raised in appellant's Specification of Errors, par. IV, *supra*, and points A, B and C, *infra*, appellant will present briefly the real estate law involved, its application to the mortgage contract in question, the practical effect of Chapter 339 thereon, and the effect of the Act generally. This will be done, although as briefly as possible, because this matter presents the basis of the constitutional questions involved, and we believe its presentation will help greatly to crystallize the issues before the Court.

The majority of the Supreme Court below admits that but for the "emergency" which that court determines to exist, Chapter 339 would be invalid, because in violation of the

limitations imposed on the States by the federal Constitution, and further, that the Act would be, likewise, contrary to the decisions of this Court and also to the long series of decisions of the Supreme Court of Minnesota. We appreciate, however, that such a concession of the invalidity of Chapter 339 is no more binding on the Court, than would be a determination to the contrary by a state court; that, therefore, it is incumbent on the appellant to support its claim of the unconstitutionality of the Act by the authority of decisions of this Court. Therefore, we will present here the practical effect of Chapter 339 on the existing law of the State and on appellant's rights, for the purpose of laying a foundation for appellant's claim so supported.

In order to present properly the issues before the Court, we will set out briefly the applicable provisions of law existing in Minnesota in 1926 when the loan of $3,800.00 was made by the appellants to the appellees and the mortgage in question was executed.

EXISTING STATE LAW WHEN THE CONTRACT WAS EXECUTED.

In 1926, at the time the mortgage was so executed, the statutes of Minnesota provided:

(a) *Foreclosure. Mason's Minnesota Statutes,* Section 9602 (Appendix D (5), p. 51), provided that every mortgage containing a power of sale (as contained in the mortgage involved herein) might be foreclosed by advertisement. The succeeding sections of the statutes, 9603 to 9613 (Appendix D (6) to (16), inc., pp. 51 to 56), inclusive, prescribe the manner of holding the sale as an extra-judicial or non-judicial sale and the entire process to be complete and the sale accomplished at the expiration of six weeks published advertisement of the notice of sale.

(b) *Redemption.* *Mason's Minnesota Statutes*, Section 9572 (Appendix D (1), p. 51), provides: But a mortgage shall not be a conveyance so as to enable the owner of the mortgage to recover possession of the real estate without a foreclosure.

Section 9626 (Appendix D (17), p. 56) provides that the mortgagor shall have twelve months within which to redeem after the sale and during which period he, of course, has possession under Section 9572 (Appendix D (1), p. 51).

Section 9630 (Appendix D (18), p. 57) provides that the effect of a redemption by the mortgagor shall be to annul the sale.

(c) *Recovery of Possession.* Section 9119 (Appendix D (1), p. 50) provides for recovery of possession by the mortgagee at the end of the period of redemption by the summary remedy of forcible entry and unlawful detainer, removable and triable within seven days after the claim by the mortgagee of the right to possession.

Of the above, the statutory provisions mentioned in (c) relate to the remedy, while those in (a) and (b) relate to the substance of the contract. All of them were, by operation of law, incorporated, so far as they were applicable, into the contract of the parties in this appeal.

See: Minnesota Cases cited, *infra*.

Provisions of Chapter 339, Laws of Minnesota, 1933, Page 514.

For the convenience of the Court, a summary analysis of the provisions of Chapter 339, is presented in Appendix B, (p. 44, herein). The entire Act is presented verbatim in Appendix A, (p. 22, herein).

THE EFFECT OF CHAPTER 339 ON EXISTING PROVISIONS OF LAW.

The effect, as a matter of local real estate law, of Chapter 339 on the existing law and the rights of the parties to this appeal, may be summarized and discussed under four (4) heads, as follows:

1. The destruction of the agreed remedy of foreclosure by advertisement. In the case of real estate mortgages containing a common law power of sale for default, this remedy is arbitrarily destroyed without compensation, at the option of the mortgagor, leaving only the right to foreclose in equity by action.

By this provision, the contract property rights of the mortgagee of real estate in a mortgage containing a power of sale for default are destroyed.

These rights are well settled by the Minnesota law as contract or property rights. It is common knowledge that more than 99% of Minnesota real estate mortgages contain this power of sale, substantially in the terms of the mortgage involved herein (R. 10). This power the Minnesota court has held, in *Webb vs. Lewis*, (1891) 45 Minn. 285, 47 N. W. 803, to be a valid common law power capable of being executed even in the absence of any statute regulating the manner of its exercise. Statutes exist, however, prescribing the manner of its exercise, and have existed in their present form since long prior to the making of all mortgages now a lien on Minnesota real estate. (*Mason's Minn. Stat., 1927*, Secs. 9603 to 9613, inc., Appendix D (6) to (16), inc., pp. 51 to 56.). These statutes provide that the power may be exercised by a non-judicial or extra-judicial sale. More than 99% of all Minnesota mortgage foreclosure sales are made by this non-judicial sale which is expeditious, inexpensive,

voluntarily agreed to by the parties, and permits, of course, a one year period of redemption thereafter. This power of sale conferred by the contract has, from early statehood, been consistently construed as a substantive contract property right.

Hayward vs. Judd, (1860) 4 Minn 483 (Gil. 375);
Goenen vs. Schroeder, (1865) 8 Minn 387 (Gil. 311);
O'Brien vs. Kreuz, (1886) 36 Minn 136, 30 N. W. 458.

No compensation for the destruction of the right is provided for in the Act and the destruction is completed at the option of the mortgagor on application therefor to the court of the county in which the real estate is situated. The result is accomplished by a court order, pursuant to the Act, forcing the mortgagee to proceed with his foreclosure, if at all, by action in equity. It would seem, in view of the prior decisions above cited, that but for the emergency, the court below, in the case at bar, would have *held* these provisions invalid.

2. The extension of redemption periods.—The redemption period of one year from date of sale of real estate on all execution sales and on all mortgage foreclosure sales, both by action and by advertisement under a power of sale, is extended arbitrarily, without compensation, by virtue of the Act only in some cases, and the courts are authorized to extend all others, as well as those so arbitrarily extended by the Act, to May 1st, 1935, as follows:

(a) *Arbitrary extensions.* All periods of redemption expiring between April 18th, 1933 (the date of passage of the Act), and May 17th, 1933, are extended arbitrarily by the Act alone to May 18th, 1933. This provision was invoked in, and is presented by, the case at bar. During such ex-

tended period, the mortgagor is empowered to apply for, and the court to grant, on terms fixed by the court under (b) next set out, a further and additional extension of the redemption price.

(b) *Extensions by court.* All redemption periods, including those already extended arbitrarily by the Act, (a) above, may be extended further by the court for periods up to nearly two years in some cases, that is, up to May 1st, 1935. The only condition prescribed is that such extension shall be made upon the payment by the mortgagor to the mortgagee, or in his behalf, of all or such part of the reasonable rental value of the premises "as to the court shall appear just and equitable."

The statutes have always provided a one-year period of redemption from mortgage and execution sales. (*Mason's Minn. Stat., 1927,* Secs. 9626, 9643, 9440; Appendix D (17), (19), (2), pp. 56, 57, 50.) It cannot be contracted away in a mortgage. (*Mason's Minn. Stat., 1927,* Sec. 9572; Appendix D (4), p. 51.) In the case of mortgages foreclosed under a power of sale, as in the case at bar, the sale is extrajudicial and the one-year period starts to run from the date of sale. (*Mason's Minn. Stat., 1927,* Sec. 9626; Appendix D (17); p. 56.) So also as to execution sales. (*Mason's Minn. Stat., 1927,* Sec. 9440; Appendix D (2), p. 50.) In foreclosure of mortgages by action, however, the statutes provide that the redemption period of one year shall run from the date of the Court's order confirming the sale. (*Mason's Minn. Stat., 1927,* Sec. 9643; Appendix D (19), p. 57.) Thus mortgage foreclosure by action is a judicial sale and is not complete until confirmed by special order of the court, which order invariably contains the substance of that statute and specifically recites that redemption may be made

only within one year from the date of such order. Hence the Legislature, by means of this Act which by its terms arbitrarily and openly changes judicial decrees of the courts, invades the separate and distinct powers of the judiciary. The Act grants arbitrarily an extension of redemption periods fixed by judicial decree prior to the passage of the Act. This arbitrary extension to May 18th, 1933, of all redemption periods expiring between April 18th, 1933, and May 17th, 1933, inclusive, applies to all foreclosures, whether made by advertisement under a power of sale or by action, as well as to execution sales. And during the period so extended, further extensions may be asked and secured by the debtor.

As to all redemption periods expiring May 18th, 1933, and later, the debtor may apply under this Act to the court for a further extension of the period of redemption to a date not later than May 1st, 1935. As a condition to the extension, however, the court may require the payment by the debtor of all or such part of the rental value "as to the court shall appear just and equitable." No other rule or test is given, nor is any definition attempted of what is just and equitable. Contiguous properties, for example, identical in all respects, may invoke orders requiring the payment in one case of 1% and in the other of 100% of the rental value, depending on the poverty or wealth of the mortgagors, or mayhap, of the mortgagees, if the court may deem these "just and equitable." Thus contracts will depend for enforcement and performance not upon their terms, but on the court's conception of the respective stations of the parties, the lower being the higher favored in the law and vice versa. (See appellant's objection on these specific grounds, R. 43.)

Again, if the property is a vacant lot, no compensation whatever would be provided because there would be no rental

value. Thus the mortgagee may or may not receive compensation for the indulgence he is forced to give the mortgagor.

The state court always has been in accord with this Court's decision in the case of *Barnitz vs. Beverley*, 163 U. S. 118, 16 S. Ct. 1042, 41 L. Ed. 93, holding that the right to possession at the end of the redemption period provided by law at the time of the making of the contract was a property right conferred by the contract itself and could not be extended over the objection of the creditor. That to do so would impair the obligations of the contract.

See: Minn. Cases cited p. 12 above.

3. The stay of actions *ex contractu* on mortgage debt.—The right to enforce the debt secured by a real estate mortgage is destroyed and postponed until May 1st, 1935, in the following respects:

(a) Deficiencies after foreclosure: Suits for deficiencies left after a foreclosure sale at a price insufficient to pay the mortgage debt may not be maintained or reduced to judgment until the redemption period expires.

(b) Suits on mortgage note before foreclosure: These may be reduced to judgment, but execution sales thereon are postponed in the same way as the mortgage itself, whether obtained before or after the passage of the Act (April 18th, 1933).

These provisions destroy and postpone the present right of the mortgagee to collect his debt, independent of the enforcement of the security of the mortgage: First, the Act, in express terms, prohibits the maintenance of an action for a deficiency judgment until the period of redemption expires. (Section 4; Appendix A (7), p. 36.) A sale pays the mortgage debt to the extent of the bid. If the debt is

not all paid by such sale, the balance may, but for Chapter 339, be sued for by the mortgagee.

Winne vs. Lahart, (1923) 155 Minn. 307, 193 N. W. 587.

This present right the Act destroys. (Last sentence of the Act, Section 4; Appendix A (7), p. 36.) So, likewise, in Sec. 3.2 (Appendix A (6), p. 36), it destroys the present right to enforce collection of the debt independently of the security of the mortgage. Under the law of Minnesota, a note and a mortgage securing the same are separate instruments, differing in their nature and purpose. The debt evidenced by the note is the principal debt and governed by the law merchant, while the mortgage is simply an incident thereto and is not governed by the law merchant. The note is enforceable according to its terms and independently of the mortgage; if the note is due, either expressly or by virtue of an acceleration clause therein, the note may be sued on independently of the enforcement of the mortgage.

Burnside vs. Craig, (1918) 140 Minn. 404, 168 N. W. 175.

This last mentioned section (Sec. 3.2; Appendix A (6), p. 36) contains the striking provisions that if a judgment has been obtained on a debt secured by a real estate mortgage, execution sales thereunder may be postponed as to all real estate of the debtor. If, however, a debt, not secured at all, is reduced to judgment, no interference or postponement of a sale on execution under such a judgment is authorized by the Act. The result is that such unsecured creditor may proceed to sell immediately any and all real estate, including mortgaged real estate, of the debtor, on execution and satisfy his debt. On the other hand, the creditor who has a mortgage on the identical real estate to which the unsecured creditor may resort, has no

remedy at all against any real estate of the debtor; not even against that specifically pledged as security for his debt.

4. The exemption from the operation of the Act of all mortgages held by United States agencies or those pledged to secure public debts and all mortgages made in the future. —The Act expressly exempts (a) any mortgage, while such mortgage is held by the United States or by any agency, department, bureau, board or commission thereof as security or pledge of the maker, its successors or assigns, (b) any mortgage held as security or pledge to secure the payment of a public debt or to secure the payment of the deposit of public funds (Appendix A (1), p. 33), and (c) any mortgage made in the future, or made prior to the passage of the Act if extended or renewed to a date not earlier than April 18th, 1934 (Appendix A (11), (18), pp. 39, 42).

By these provisions the Act denies relief to certain mortgagors, not depending upon the character of the property or the condition of the mortgagor or of any act which he has done or permitted, but solely on the basis of ownership of the debt, *i. e.*, status of the creditor. Likewise, certain mortgagees are not subjected to the Act, depending solely on their own conduct in encumbering the mortgage by pledge to secure a public debt or public deposit. This is true even though the legal title to the mortgage may still remain in the original mortgagee. Thus mortgages on contiguous pieces of property by two mortgagors, identical in all respects and made to the same mortgagee bank, in one case, would be subject to all the burdens of the Act and in the other case would not be subject to the Act, solely by reason of the pledge by the bank of the latter mortgage to secure a public deposit.

By eliminating from the application of the Act all con-

tracts, that is, all mortgages made after April 18th, 1933, there is a total absence of regulation in the future. Assuming the acts of mortgagees heretofore in enforcing their security is intended and hostile to the public welfare, the Legislature has thus permitted *subsequent* contracts to be enforced by the same acts, condemned as hostile when used to enforce *prior* contracts.

Confessing a lack of confidence in the constitutionality of the Act, the Minnesota Legislature of 1933 re-enacted verbatim the provisions summarized under paragraph I above, which, as we have seen, destroy the remedy of a sale under a power of sale by advertisement, but the Legislature limited its application to homesteads only (Part II, Section 2; Appendix A (18), p. 40), adding, however, the unique provision that in construing Part II (Appendix A (15) to (23), inc., pp. 40 to 43) of the Act as to homesteads only, the court should subtract from the power conferred by the Act all of its excesses over the *legitimate* exercise of police power (Part II, Section 5; Appendix A (19), p. 42). The obvious conclusion is that such excesses shall remain and be effective, nevertheless, as to the provisions of Part I; Appendix A (2) to (13), inc., which do not affect homesteads exclusively.

The Effect of Chapter 339 on the Appellant's Contract and Property.

Chapter 339 became effective on April 18th, 1933. On that date appellant, the mortgagee, was the owner of the sheriff's certificate of sale on the mortgage foreclosure of appellant's mortgage, appellant having itself bid in the property at the sale on May 2nd, 1932. Under the law existing at the time the mortgage was made and at the time of the foreclosure

sale, the appellant, as such purchaser, would become the fee owner of the premises on May 2nd, 1933. On that date appellant, under said laws, was entitled to possession because there was no redemption. By the act of the Legislature itself and *without any act of either appellant or appellees*, this period of redemption was extended to May 18th, 1933, from May 2nd, 1933. Likewise, by the filing of the application for extension under the Act, the period of redemption was again extended for a second time to the date of the court's judgment extending the time of redemption, that is, to July 27th, 1933. This was a second extension under the Act and effected by the provision of the Act which states that the running of the period of redemption shall be tolled until the court shall make its order upon such application. (Part I, Sec. 1; Appendix A (7).) The third extension was effected by the judgment of the trial court and the Supreme Court of Minnesota from which this appeal is taken and by this judgment the period of redemption was further, and for a third time, extended to May 1st, 1935, that is, additional total periods of two years, less one day. In the meantime and during this two year period, appellant is deprived of possession of the premises and of the fee title and of the right to sell and dispose of the same in fee.

The next regular session of the Legislature of Minnesota will occur before the end of this additional period of redemption. If it be established that this extension of the period is valid, succeeding legislatures may make further extensions which will have the effect of making the redemption period perpetual and thus to transform the relationship of mortgagee and mortgagor into that of landlord and tenant, in which the tenant owns the title.

THE PRACTICAL EFFECT OF CHAPTER 339 GENERALLY:

The Act clearly shows that it was designed and intended to protect the ownership of real property in Minnesota at all hazards. By no stretch of the imagination, can it be claimed that the mere recital of the economic depression indicates an intention on the part of the legislature to cure the depression. Neither the conditions recited in the preamble of the Act, nor the actual prevailing conditions, approximate in degree of depression those conditions prevailing throughout this nation prior to the adoption of the contract clause in the federal Constitution, which conditions were judicially noticed by this Court in *Edwards vs. Kearzey* (1878), 96 U. S. (6 Otto) 595, 24 L. Ed. 793, at pages 601, 603 and 606. Rather, this recital in the Act is made solely to identify the cause of the landowners' present condition. And it is this condition only that the legislature seeks to remedy.

Practically, the Act defeats this purpose, because it aggravates the depression from which the landowners' condition is said to result. From the very nature of things, it tends naturally and inevitably to restrict the extension of credit on real estate security in Minnesota, and thus (a) to increase foreclosure of mortgages by discouraging loans or renewals by lenders, (b) to decrease employment of labor and the purchase and use of building materials because prospective builders cannot borrow funds to finance the improvement of real estate, by building or otherwise, and (c) to freeze assets and deposits in banks and other institutions which would otherwise become liquid by payment of old loans from new loans in the constant and ever recurring transfer of real estate investments from one lender who needs *payment* of principal, to another lender who needs

investment of principal.

On this point, the Supreme Court of Minnesota, in the case at bar, agreed unanimously. All members of the court joined in saying that the Act tends to restrict the extension of credit. In the majority opinion it was said (R. 24):

> "And again, it may well be argued that legislation which impairs contract obligations defeats its purpose. It tends to withdraw from the borrower the funds which otherwise he might procure. Lenders will not loan their money in a state where the contract for its repayment may be impaired at the uncontrolled whim of its legislature."

And in the dissenting opinion of Mr. Justice Stone, it was said (R. 38):

> "But to my notion that welfare will be hindered ultimately rather than helped by such laws as Chapter 339. Our western country was largely built into what it is on money borrowed some from our own people, but much from lenders in other states and overseas. Just now we are sadly in need of rebuilding, and we must rebuild largely on borrowings to be secured by mortgages on our real estate. Just how or from whom can we borrow if we serve notice, as this law does, that foreclosure of mortgages may be deferred indefinitely at the pleasure of officials owing their office to the favor of the debtors?"

The results so predicted by the court have followed swiftly and irresistibly. The official records of the Building Inspector of the City of Minneapolis, show that, during the

five months since the passage of Chapter 339, building in that City alone, has fallen in volume by 23 per cent, and in value, to the extent of $850,885.00 (Appendix E, p. 58). Records of the Dodge Reports Service, used by the United States government, as the outstanding and most reliable authority on building statistics throughout the United States, show likewise, that during the first four months since the enactment of Chapter 339, that building has fallen off, throughout the entire State of Minnesota, to the value of $1,491,700.00 (Appendix F, p. 58).

There is no easily accessible method of determining to what extent lenders of money, both corporate and individual, resident or non-resident of Minnesota, have withheld money for new loans, or refused to continue old loans. But the large number of applications for relief under the Act, tends to show that the volume of loans so withheld and the number of lenders withholding the same, is in both cases enormous.

In so far as Chapter 339 does the things set out in the foregoing quotations from the court's opinion, just that far does, and must, the Act defeat its own purpose. The Act is, for the same reasons, diametrically opposed to the present programs of national and state governments generally, to remedy present conditions by fostering and encouraging the extension of credit, the employment of additional labor, and the buying and use of goods and merchandise, including building materials. With all of the foregoing matter in mind it cannot be said with any degree of accuracy or reasonableness that Chapter 339 operates for the benefit or welfare of the state as a whole, or of all of its people as a whole, or even for the particular class of debtors intended to be benefited thereby.

Points A and B.

THE SUPREME COURT OF MINNESOTA ERRED IN AFFIRMING THE JUDGMENT ENTERED IN THE TRIAL COURT, AND IN SUSTAINING THE VALIDITY OF CHAPTER 339, LAWS OF MINNESOTA, 1933, AGAINST THE CONTENTION OF APPELLANT THAT THE SAME IS REPUGNANT TO THE CONTRACT CLAUSE, ART. I, SEC. 10, OF THE FEDERAL CONSTITUTION.

THE SUPREME COURT OF MINNESOTA ERRED IN AFFIRMING THE JUDGMENT ENTERED IN THE TRIAL COURT, AND IN SUSTAINING THE VALIDITY OF CHAPTER 339, LAWS OF MINNESOTA, 1933, AGAINST THE CONTENTION OF APPELLANT THAT THE SAME IS REPUGNANT TO THE DUE PROCESS OF THE LAWS CLAUSE OF THE FEDERAL CONSTITUTION.

We consolidate the argument on Points A and B, because we believe and submit that the questions involved in these points have been determined in the affirmative by this Court in the following decisions:

Bronson vs. Kinzie, (1843) 14 U. S. (1 How.) 311, 11 L. Ed. 143;

Howard vs. Bugbee, (1861) 65 U. S. (24 How.) 461, 16 L. Ed. 753;

Barnitz vs. Beverly, (1896) 163 U. S. 118, 16 S. Ct. 1042, 41 L. Ed. 93.

See also; Cases in which stay laws, interference with remedies under existing law, and extensions of redemption periods, were all *held* void as impairing the obligation of contracts within the meaning of the contract clause, Art. I, Sec. 10, U. S. Constitution.

McCracken vs. Hayward, (1844) 43 U. S. (2 How.) 608, 11 L. Ed. 397;

Gantly vs. Ewing, (1845) 44 U. S. (3 How.) 707, 11 L. Ed. 794;

Walker vs. Whitehead, (1873) 83 U. S. (16 Wall.) 314, 21 L. Ed. 357;

Edwards vs. Kearzey, (1878) 96 U. S. (6 Otto.) 595, 24 L. Ed. 793;

Daniels vs. Tearney, (1880) 102 U. S. (12 Otto.) 415, 26 L. Ed. 187;

McGahey vs. Virginia, (1890) 135 U. S. 662, 10 S. Ct. 972, 34 L. Ed. 304.

Appellant claims, first, that the case at bar falls squarely within these cases, and, second, that on the authority of these decisions, the following matters are conclusively established in the case at bar, as a matter of law, within the meaning of the contract clause and of the due process clause:

1. The Contract—That the agreement between the parties to this appeal constitutes a *contract*, and *property*.

2. Validity of Contract[1]—That the agreement is a *valid* contract in all things, viz.: a lawful, subsisting, private contract, based on the mutual consent of the parties, upon adequate consideration, etc.

3. Parties—That the appellant is a *proper party* to raise the constitutional questions herein presented.

4. The Mortgage—That the *mortgage* involved herein is a component part of the contract; that the mortgage, prior to the enactment of Chapter 339, had been duly foreclosed pursuant to the terms of the contract, and that but for that

[1]All of the contents of this paragraph and paragraphs 3 and 4 following, were either stipulated by counsel and incorporated in the findings of the trial court, or were otherwise admitted below.

Act, the legal title to the premises would have been irrevocably confirmed in the appellant, on May 2nd, 1933, together with the right of immediate possession, all free and clear of any claim whatever of the appellees.

5. Remedies—That the *remedies* provided in the contract were a part of the contract, both (a) those remedies *expressly* agreed between the parties, and (b) those remedies *impliedly* agreed between the parties by virtue of the state law existing at the time the agreement was made.

(a) The parties *expressly* agreed (1) that in case of foreclosure, the mortgage instrument should operate as a conveyance of the *fee title* upon expiration of the one-year redemption period; and (2) that in case of default by the mortgagors, the mortgagee might foreclose *by advertisement and without the intervention of any court.*

(b) The parties *impliedly* agreed, by virtue of the existing state law, that such existing remedies therein as were applicable to the contract, at the time of its execution, were a part of the contract. Among others, the following provisions of the existing law were so incorporated (as set out, *supra,* pp. 8 to 10) into the contract: That in case of foreclosure of the mortgage, the mortgagors might redeem, but only within *one* year from the date of such sale, and on their failure to do so, fee title to the premises would be confirmed, one year from the date of the foreclosure sale, in the mortgagee, as the purchaser at such foreclosure sale; that under such circumstances the purchaser would have the right to immediate possession; that such purchaser might obtain possession by the usual procedure in unlawful detainer; and that the mortgagee, if the proceeds of such sale were not sufficient to satisfy the debt in full,

might have a deficiency judgment[2] for such unsatisfied balance.

6. The Obligation—That the foregoing remedies, as the means of enforcement, are as much a part of the *obligation* of the contract, as is the promise of the mortgagors to perform their duties under the contract and to satisfy the same according to the terms thereof.

7. The Impairment, and the Taking of Property Without Due Process—That Chapter 339 *impairs* the obligation of the contract and *takes appellant's property without due process of law*, because:

(a) (1) The Act arbitrarily changed provisions of existing law in the manner indicated at pages 11 to 18, *supra*.

(b) That in the case at bar, solely by virtue of and pursuant to Chapter 339, the following retroactive changes were made over the appellant's objection and to its detriment:

(1) The agreed remedy of foreclosure by *advertisement* was changed into foreclosure by *action in the courts*, and the mortgagee was subjected to such action as was taken or may be taken hereafter by the court pursuant to the provisions of the Act.

(2) The redemption period was extended, in the same manner, from *one* year to *three* years.

(3) The irrevocable vesting in appellant of the fee title to the property was prevented on May 2nd, 1933, and since that date; also by virtue of the Act, the appellant's title is not one in fee absolute, as expressly agreed by the parties,

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[2]The question of a deficiency judgment is not presented in the case at bar, because at the foreclosure sale, the appellant bid the full amount of its claim (R. 47). The point is mentioned merely for the information of the Court and to round out the argument in view of the provisions of the Act relating to deficiency judgments.

but is merely a defensible title, subject to redemption at any time during the additional two-year period by the mortgagors. This cutting down of the appellant's estate and enlargement of the mortgagors' estate is contrary to the express terms of the contract and is made arbitrarily by the Act. Moreover, the possession, use and dominion over its own property was thus denied and will continue to be denied until May 1st, 1935.

Police Power—Emergencies.

All of the foregoing matters, we believe, are settled by the foregoing decisions of this Court and we believe the principles of law announced therein by this Court are no longer open to argument. We think also that we are correct in stating that both the Supreme Court of Minnesota and the appellees admit, as they must, these principles and their application to the case at bar. But, the majority of the court below held, and the appellees argue, that nevertheless, Chapter 339 is valid; that it is valid because the economic depression constitutes an emergency, and that during such an emergency, the limitations on the states imposed by the federal Constitution are suspended; that the inherent power (*i. e.*, the police power) of the states to protect their own existence is superior to all limitations[8]; and that in such emergencies the states may do things, particularly through

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[8]Aside from the fact that there is nothing in the record before this Court to show that the existence of the State of Minnesota is threatened, the claim that the police power is beyond all limitations in the federal Constitution is so extravagant as to hardly merit consideration, because it flies directly in the face of innumerable decisions of this Court to the contrary. Moreover, the proponents, themselves admit the contrary, twice: First, in admitting that in normal times the Act would be void because violating the federal Constitution; and, second; in arguing that the emergency justifies the Act and frees the police power of the restraints otherwise imposed by the Constitution.

their police power, which, admittedly, may not be done in normal times.

They profess to find support for these propositions in the decisions of this Court in the Rent Cases:

Block vs. Hirsh, (1921) 256 U. S. 135, 41 S. Ct. 458, 65 L. Ed. 865, 16 A. L. R. 165;

Brown Holding Co. vs. Feldman, (1921) 256 U. S. 170, 41 S. Ct. 465, 65 L. Ed. 877;

Levy Leasing Co. vs. Siegel, (1922) 258 U. S. 242, 42 S. Ct. 289, 66 L. Ed. 595;

Chastleton Corp. vs. Sinclair, (1924) 264 U. S. 543, 44 S. Ct. 405, 68 L. Ed. 841.

However, the appellant does not admit that the economic depression constitutes an emergency; nor does appellant admit that such emergency, if any, is of the character recognized by this Court as within the meaning of that term, *i. e.*, as constituting an emergency which will suspend the limitations of the federal Constitution.

In substance, the claim of the majority of the court below and of opposing counsel is, that in these cases, this Court has itself reversed, overruled, or modified the decisions previously cited (pp. 23-24, *supra*) and relied upon by appellant. With all due respect to them, we submit that this claim is unfounded. We have been unable, ourselves, to find any decision of this Court, and none has been cited by them, to show that this Court has reversed the decisions or retracted any of the applicable principles laid down in the cases cited by appellant. It would be absurd to claim that this Court has done so *expressly*. And we submit that this Court has not done so by *implication*, or *indirectly*—not even in the Rent Cases.

Appellant claims on the authority of the foregoing deci-

sions, that Chapter 339 is not a legitimate exercise of the police power; and that the conditions presented in the case at bar, do not constitute an emergency which will suspend the limitations imposed on the states by the federal Constitution; and that therefore the Act is invalid.

For all the foregoing reasons and those presented in the following paragraphs, under Point C, and on the authority of the foregoing decisions of this Court, appellant submits that the Act is void under the contract clause and the due process clause, and that the court below erred in holding valid Chapter 339.

Point C.

THE SUPREME COURT OF MINNESOTA ERRED IN AFFIRMING THE JUDGMENT ENTERED IN THE TRIAL COURT, AND IN SUSTAINING THE VALIDITY OF CHAPTER 339, LAWS OF MINNESOTA, 1933, AGAINST THE CONTENTION OF APPELLANT THAT THE SAME IS REPUGNANT TO THE EQUAL PROTECTION OF THE LAWS CLAUSE OF THE FEDERAL CONSTITUTION.

Appellant claims that Chapter 339 denies equal protection of the laws, not only to appellant and other *creditors*, similarly situated, but also to other *debtors*[4], because:

(a) Creditors—While *creditors*, like appellant in the case at bar, who have taken security by way of mortgages on real estate in Minnesota, or creditors who may otherwise resort to such real estate owned by their debtors for satisfaction of the debt, are subjected to the provisions of the Act to the detriment of such creditors, other creditors who

[4]While the appellant, as a creditor is perhaps not in a position to urge discrimination between debtors, the matter is mentioned for the information of the Court and to round out the argument by indicating the additional vital objection which might be raised, in a proper case, against the Act.

have not taken such security or creditors who cannot otherwise resort to such real estate of their debtors for satisfaction of the debt, are not subjected to the Act.

(b) Debtors[5] Likewise, while *debtors*, like the appellees in the case at bar, who have given security by way of mortgage on their real estate in Minnesota, or whose real property can otherwise be resorted to in satisfaction of the debt, are given the benefits of the Act, other debtors who have not given such security or who have no real property out of which satisfaction of the debt can be exacted, are denied any benefits under the Act.

Appellant submits that there is no reasonable or valid basis for such classification and discrimination; that the Act is void, under the equal protection of the laws clause; and that the court below erred in holding valid Chapter 339.

CONCLUSION.

Appellant states briefly, in conclusion, on the basis of the facts presented in the case at bar, and for all of the foregoing reasons, and on the authority of the foregoing decisions of this Court: First, that the Act challenged is void because repugnant to and in violation of the contract clause, the due process of law clause and the equal protection of the laws clause of the federal Constitution; and second, that the court below erred in deciding to the contrary and in sustaining the Act as valid.

It is respectfully submitted, therefore, that this case is one calling for the exercise by this Court of its supervisory powers in order that the questions of Constitutional law of nation-wide importance presented herein shall be determined,

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[5]See footnote 4, supra.

and in order that error below of the Supreme Court of the State of Minnesota shall be corrected. That to such end, Chapter 339, Laws of Minnesota, 1933, page 514, should be declared null and void as unconstitutional under the Constitution of the United States, and that the judgment of the Supreme Court of the State of Minnesota should be reversed.

Respectfully submitted,

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APPENDIX "A."

CHAPTER 339, LAWS OF MINN., 1933, PAGE 514.

CHAPTER 339—H. F. No. 1095.

An act relating to the granting of relief in certain cases during the emergency declared to exist, from inequitable foreclosure of mortgages on real estate and execution sales of real estate and for postponing certain sales and for extending the periods of redemption from certain others; and relating to the jurisdiction and procedure for such relief and for the right to possession during the extended period, and for limiting the right to maintain actions for deficiency judgments, and for extending the expiration of certain periods of redemption to 30 days after the passage of this act.

[1a] Whereas, the severe financial and economic depression existing for several years past has resulted in extremely low prices for the products of the farms and the factories, a great amount of unemployment, an almost complete lack of credit for farmers, business men and property owners and a general and extreme stagnation of business, agriculture and industry, and

Whereas, many owners of real property, by reason of said conditions, are unable, and it is believed, will for some time be unable to meet all payments as they come due of taxes, interest and principal of mortgages on their properties and are, therefore, threatened with loss of such properties through mortgage foreclosure and judicial sales thereof, and

Whereas, many such properties have been and are being bid in at mortgage foreclosure and execution sales for prices much below what is believed to be their real values and often for much less than the mortgage or judgment indebtedness, thus entailing deficiency judgments against the mortgage

and judgment debtors, and

Whereas, It is believed, and the Legislature of Minnesota hereby declares its belief, that the conditions existing as hereinbefore set forth has created an emergency of such nature that justifies and validates legislation for the extension of the time of redemption from mortgage foreclosure and execution sales and other relief of a like character; and

Whereas, The State of Minnesota possesses the right under its police power to declare a state of emergency to exist, and

Whereas, the inherent and fundamental purposes of our government, is to safeguard the public and promote the general welfare of the people; and

Whereas, Under existing conditions the foreclosure of many real estate mortgages by advertisement would prevent fair, open and competitive bidding at the time of sale in the manner now contemplated by law, and

Whereas, It is believed, and the Legislature of Minnesota hereby declares its belief, that the conditions existing as hereinbefore set forth have created an emergency of such a nature that justifies and validates changes in legislation providing for the temporary manner, method, terms and conditions upon which mortgage foreclosure sales may be had or postponed and jurisdiction to administer equitable relief in connection therewith may be conferred upon the District Court, and

Whereas, Mason's Minnesota Statutes of 1927, Section 9608, which provides for the postponement of mortgage foreclosure sales, has remained for more than thirty years, a provision of the statutes in contemplation of which provisions for foreclosure by advertisement have been agreed upon; NOW THEREFORE,

Be it enacted by the Legislature of the State of Minnesota:

[1b] The provisions of this Act shall not apply to any

mortgage while such mortgage is held by the United States or by any agency, department, bureau, board or commission thereof, as security or pledge of the maker, its successors or assigns, nor shall the provisions of this Act apply to any mortgage held as security or pledge to secure payment of a public debt or to secure payment of the deposit of public funds.

The following sections of this Act preceding Part Two shall constitute Part One.

[2]. Section 1. EMERGENCY DECLARED TO EXIST.—In view of the situation hereinbefore set forth, the Legislature of the State of Minnesota hereby declares that a public economic emergency does exist in the State of Minnesota.

[3] Sec. 2. MORTGAGEE MAY APPLY TO DISTRICT COURT FOR RELIEF.—In any proceedings heretofore commenced for the foreclosure of a mortgage on real estate by advertisement, in which a sale of the property has not been had, or in any such proceedings hereafter commenced, when the mortgagor, or the owner in possession of the mortgaged premises, or anyone claiming under said mortgagor, or anyone liable for the mortgage debt, at any time after the issuance of the notice of such foreclosure proceedings, shall apply to the District Court of the county wherein such foreclosure proceedings are being had, or are pending, by filing and serving a summons and verified complaint with prayer that the sale in foreclosure by advertisement shall be postponed and that the foreclosure, if any, shall proceed by action. If it appears to the court that granting of the relief as prayed would be equitable and just, then, and in that event, the foreclosure proceedings by advertisement may be postponed by the court by an ex parte order which shall be served with the summons and complaint upon the party foreclosing or

his attorney and at the time of the hearing upon such order, the court may then further postpone such sale, and the parties seeking to foreclose such mortgage shall proceed, if at all, to foreclose said mortgage by interposing a cross complaint in such action. Such service may be made as now provided for the service of a summons in a civil action, or by registered mail on the person foreclosing or his authorized agent or attorney at the last known address of such person, agent or attorney respectively. As a condition precedent to such postponement of such foreclosure sale by advertisement the party filing such verified complaint shall pay to the clerk for the person foreclosing the mortgage the expenses incurred not including attorney's fees which may accrue prior to any postponement. The filing of such verified complaint shall be deemed a waiver of publication of notice of postponement of the foreclosure sale and the sale at the time which may be fixed by the court shall be deemed to be a sale postponed in lieu of the time of sale specified in the published notice of mortgage foreclosure sale.

[4] Sec. 3. COURT MAY ORDER RESALE.—When any mortgage has been foreclosed by action, the court shall, on the coming in of the report of sale, cause notice of a hearing thereon to be served on the parties to the action who have appeared, and fix the time and place for the hearing on said report. Before granting an order confirming said sale, the court shall, if it appears upon due examination that the sale price is unreasonably and unfairly inadequate, or that justice has otherwise not been done, order a resale. If the sale is confirmed, the sheriff, or his deputy, shall forthwith execute and deliver the proper certificate of sale which shall be recorded within 20 days after such confirmation. Upon the hearing of the motion for an order confirming the sale of the

premises involved in the foreclosure of mortgages by action, in case the evidence is insufficient to establish a fair and reasonable market or rental value of such property, the court shall receive any competent evidence, including evidence tending to establish the actual value of the property involved in said mortgage foreclosure proceedings, for the purpose, or purposes, for which said property is or can be used. The court shall also receive any evidence tending to show to what extent, if any, the property has decreased in actual or market value by reason of the economic conditions existing at the time of or prior to such sale.

[5] Sec. 3. 1. Compromises. In case the parties to any such foreclosure action shall agree in writing upon terms of compromise settlement thereof, or of composition of the mortgage indebtedness, or both, the court shall have jurisdiction and may by its order confirm and approve such settlement or composition, or both, as the case may be.

[6] Sec. 3. 2. Jurisdiction of Court. The court shall have the same jurisdiction to postpone the enforcement of judgment by execution sale or to order resale or give other relief where such judgment is rendered in an action to collect a debt or obligation secured by a real estate mortgage, the foreclosure of which might be affected under the terms of this Act, as is conferred by this Act with regard to the mortgage.

[7] Sec. 4. Period of Redemption May Be Extended.—Where any mortgage upon real property has been foreclosed and the period of redemption has not yet expired, or where a sale is hereafter had, in the case of real estate mortgage foreclosure proceedings, now pending, or which may hereafter be instituted prior to the expiration of two years from and after the passage of this Act, or upon the sale of any

real property under any judgment or execution where the period of redemption has not yet expired, or where such sale is made hereafter within two years from and after the passage of this Act, the period of redemption may be extended for such additional time as the court may deem just and equitable but in no event beyond May 1st, 1935; provided that the mortgagor, or the owner in possession of said property, in the case of mortgage foreclosure proceedings, or the judgment debtor, in case of sale under judgment, or execution, shall prior to the expiration of the period of redemption, apply to the district court having jurisdiction of the matter, on not less than 10 days' written notice to the mortgagee or judgment creditor, or the attorney of either, as the case may be, for an order determining the reasonable value of the income on said property, or, if the property has no income, then the reasonable rental value of the property involved in such sale, and directing and requiring such mortgagor or judgment debtor, to pay all or a reasonable part of such income or rental value, in or toward the payment of taxes, insurance, interest, mortgage or judgment indebtedness at such times and in such manner as shall be fixed and determined and ordered by the court; and the court shall thereupon hear said application and after such hearing shall make and file its order directing the payment by such mortgagor, or judgment debtor, of such an amount at such times and in such manner as to the court shall, under all the circumstances, appear just and equitable. Provided that upon the service of the notice or demand aforesaid that the running of the period of redemption shall be tolled until the court shall make its order upon such application. Provided, further, however, that if such mortgagor or judgment debtor, or personal representative, shall default in the payments, or any of them, in such order required, on his part to be done,

or commits waste, his right to redeem from said sale shall terminate 30 days after such default and holders of subsequent liens may redeem in the order and manner now provided by law beginning 30 days after the filing of notice of such default with the clerk of such District Court, and his right to possession shall cease and the party acquiring title to any such real estate shall then be entitled to the immediate possession of said premises. If default is claimed by allowance of waste, such 30 day period shall not begin to run until the filing of an order of the court finding such waste. Provided, further, that the time of redemption from any real estate mortgage foreclosure or judgment or execution sale heretofore made, which otherwise would expire less than 30 days after the passage and approval of this Act, shall be and the same hereby is extended to a date 30 days after the passage and approval of this Act, and in such case, the mortgagor, or judgment debtor, or the assigns or personal representative of either, as the case may be, or the owner in the possession of the property, may, prior, to said date, apply to said court for and the court may thereupon grant the relief as hereinbefore and in this section provided. Provided, further, that prior to May 1, 1935, no action shall be maintained in this state for a deficiency judgment until the period of redemption as allowed by existing law or as extended under the provisions of this Act, has expired.

[8] Sec. 5. Court May Revise and Alter Terms.—Upon the application of either party prior to the expiration of the extended period of redemption as provided in this Act and upon the presentation of evidence that the terms fixed by the court are no longer just and reasonable, the court may revise and alter said terms, in such manner as the changed circumstances and conditions may require.

[9] Sec. 6. TRIAL TO BE HELD WITHIN 30 DAYS.—The trial of any action, hearing or proceeding mentioned in this Act shall be held within 30 days after the filing by either party of notice of hearing or trial, as the case may be, and such hearing or trial may be held at any general or special term, or in chambers, or during vacation of the court, and the order of the court shall be filed within 5 days after trial or hearing, no more than 5 days stay shall be granted and review by the Supreme Court may be had by certiorari, if application for the writ shall be made within 15 days after notice of such order and such writ shall be returnable within 30 days after the filing of such order.

[10] Sec. 7. INCONSISTENT LAWS SUSPENDED TILL MAY 1, 1935.—Every law and all the provisions thereof now in force insofar as inconsistent with the provisions of this Act, are hereby suspended until May 1st, 1935. No extension of the period for redemption nor any postponement of sale shall be ordered or allowed under this Act which would have the effect of extending the period for redemption beyond May 1, 1935.

[11] Sec. 8. APPLICATION OF ACT.—This Act as to mortgage foreclosures shall apply only to mortgages made prior to the passage and approval of this Act but shall not apply to mortgages made prior to the passage of this Act which shall hereafter be renewed or extended for a period ending more than one year after the passage of this Act; neither shall this Act apply in any way which would allow a resale, stay, postponement or extension to such time that any right might be adversely affected by a statute of limitation.

[12] Sec. 9. PROVISIONS SEPARABLE.—The provisions of this Act are hereby declared to be severable. If one provision hereof shall be found by the decision of a court of com-

petent jurisdiction to be invalid, such decision shall not affect the validity of the other provisions of this Act.

[13] Sec. 10. DEFINITION.—The words "mortgagor," "mortgagee," "judgment creditor," "judgment debtor," and "purchaser," whenever used in this Act shall be construed to include the plural as well as the singular and also to include their personal representatives, successors and assigns.

Sec. 11. APPLICATION.—Whenever the term "this Act" is referred to in that part of the bill amended so as to constitute Part One thereof, the same shall be construed as having reference only to Part One of this Act.

[14] PART TWO

[15] Section 1. TO APPLY TO HOMESTEADS ONLY.—The following Part Two, of this Act shall apply only to real estate occupied as a home exclusively by the person seeking relief or persons dependent upon him and to farm lands used by the person seeking relief as his principal means of furnishing necessary support to such person, his family and dependents, and shall apply only to cases not entitled to relief under some valid provision of Part One of this Act.

[16] Sec. 2. MORTGAGEE MAY APPLY TO DISTRICT COURT FOR RELIEF.—In any proceedings heretofore commenced for the foreclosure of a mortgage on real estate by advertisement, in which a sale of the property has not been had, or in any such proceedings hereafter commenced, when the mortgagor, or the owner in possession of the mortgaged premises, or anyone claiming under said mortgagor, or anyone liable for the mortgage debt, at any time after the issuance of the notice of such foreclosure proceedings, shall apply to the District Court of the county wherein such foreclosure proceedings

are being had, or are pending, by filing and serving a summons and verified complaint with prayer that the sale in foreclosure by advertisement shall be postponed and that the foreclosure, if any, shall proceed by action. If it appears to the court that granting of the relief as prayed would be equitable and just, then, and in that event, the foreclosure proceedings by advertisement may be postponed by the court by an ex parte order which shall be served with the summons and complaint upon the party foreclosing or his attorney and at the time of the hearing upon such order, the court may then further postpone such sale, and the parties seeking to foreclose such mortgage shall proceed, if at all, to foreclose said mortgage by interposing a cross complaint in such action. Such service may be made as now provided for the service of a summons in a civil action, or by registered mail on the person foreclosing or his authorized agent or attorney at the last known address of such person, agent or attorney respectively. As a condition precedent to such postponement of such foreclosure sale by advertisement the party filing such verified complaint shall pay to the clerk for the person foreclosing the mortgage the expenses incurred not including attorney's fees which may accrue prior to any postponement. The filing of such verified complaint shall be deemed a waiver of publication of notice of postponement of the foreclosure sale and the sale at the time which may be fixed by the court shall be deemed to be a sale postponed in lieu of the time of sale specified in the published notice of mortgage foreclosure sale.

[17] Sec. 3. JURISDICTION OF COURT.—The court shall have the same jurisdiction to postpone the enforcement of judgment by execution sale or to order resale or give other relief where such judgment is rendered in an action to collect

a debt or obligation secured by a real estate mortgage, the foreclosure of which might be affected under the terms of this Act, as is conferred by this Act with regard to the mortgage.

[18] Sec. 4. APPLICATION OF ACT.—The provisions hereof shall not apply to mortgages made after the passage of this Act nor to mortgages made prior to the passage of this Act which shall hereafter be renewed or extended to become due more than a year after such passage; neither shall this Act apply in any way which would allow a resale, stay, postponement or extension to such time that any right might be adversely affected by a statute of limitation.

[19] Sec. 5. LIMITATIONS OF ACT.—No postponement or extension shall be ordered under conditions which, under the temporary emergency, would substantially diminish or impair the value of the contract or obligation of the person against whom the relief is sought, without reasonable allowance to justify the exercise of the police power hereby authorized.

[20] Sec. 6. TRIAL TO BE HELD WITHIN 20 DAYS.—The trial of any action, hearing or proceeding provided for in this Act shall be held within 20 days after the filing by either party of notice of hearing or trial, as the case may be, and such hearing or trial may be held at any general or special term, or in chambers, or during vacation of the court, and the order of the court shall be filed within 5 days after trial or hearing, no more than 5 days stay shall be granted within which to apply for amended findings, and order or for review, and review by the Supreme Court may be had by certiorari, if application for the writ shall be made within 10 days after notice of such order and such writ shall be returnable within 30 days after the filing of such order.

[21] SEC. 7. PROVISIONS SEPARABLE.—The provisions of this Act shall be severable. The invalidity of any one provision, section or part shall not affect the validity of the remainder. Wherever the term "this Act" or "hereof" are used in Part Two, the same shall be construed as having no reference to Part One.

[22] SEC. 8. DURATION OF ACT LIMITED.—This Act shall remain in effect only during the continuance of the emergency and in no event beyond May 1, 1935. No extension of the period for redemption nor any postponement of sale shall be ordered or allowed under this Act which would have the effect of extending the period for redemption beyond May 1, 1935.

[23] SEC. 9. APPLICATION OF ACT.—Nothing in Part Two of this Act shall limit or restrict any provision of Part One.

Approved April 18, 1933.

APPENDIX "B."

Summary Analysis of Chapter 339, Laws of Minn., 1933, Page 514.

[1] Preamble. (a) A preamble recites an economic emergency. (b) The preamble exempts from the provision of the Act any mortgage "held by the United States or by any agency, department, bureau, board or commission thereof, as security or pledge of the maker, its successors or assigns," and "any mortgage held as security or pledge to secure payment of a public debt or to secure payment of the deposit of public funds."

[2] Section 1. This declares that an economic emergency exists.

[3] Section 2. This provides that in foreclosures by advertisement under power of sale in the mortgage, where a sale has not yet been made, the mortgagor, owner in possession or anyone liable for the mortgage debt may procure a postponement of the sale by advertisement by applying therefor to the district court of the county in which the real estate is situated and that the court may also order that the foreclosure proceedings shall thereafter proceed by action only. No compensation is provided for to the mortgagee, except the costs of the proceeding already incurred.

[4] Section 3. This provides that in all foreclosures of mortgages by action a court may order a re-sale if the price for which sold is unreasonably and unfairly inadequate and requires the court to receive evidence on applications to confirm any sale of actual value as therein defined.

[5] Section 3. 1. This provides that compromises by the parties of foreclosure actions may be approved by the court.

[6] Section 3. 2. This provides that a court shall have the jurisdiction to postpone execution sales on real estate and to order re-sale thereon on all judgments where the judgment is based on a debt secured by a real estate mortgage, the foreclosure of which is affected by the Act.

[7] Section 4. This provides that periods of redemption from mortgage foreclosure and execution sales shall be extended as follows:

(a) All periods of redemption expiring between April 18th, 1933 (the date of passage of the Act), and May 17th, 1933, inclusive, are arbitrarily extended by the legislature along to May 18th, 1933, during which arbitrarily extended period the mortgagor may apply for further extension under the succeeding paragraph (b);

(b) The district court of the county in which the real estate is located is authorized to grant a further extension of the periods so arbitrarily extended and of all other periods of redemption from mortgage foreclosure and execution sales to a date not later than May 1st, 1935, upon the application of the mortgagor or judgment debtor and solely upon the condition that the mortgagor or judgment debtor, as the case may be, shall pay to the creditor "all or a reasonable part of" the income or rental value "as to the court shall, under all of the circumstances, appear just and equitable," toward the payment of taxes, insurance, interest and principal mortgage indebtedness and at such times and in such manner as shall be fixed by the court.

(c) It is further provided in this section that the running of the period of redemption shall be controlled by the service of the application to the court for the extension. A further provision is that in case of default in compliance with the terms of the order and in case of waste, the period

of redemption shall terminate within thirty days after the default or the determination by an order of the court of the occurrence of waste, and junior encumbrancers may then redeem in order upon filing of the notice of default or of the order determining the occurrence of waste.

(d) The section further provides that no action for a deficiency judgment on the mortgage debt shall be maintained until the period of redemption expires.

[8] Section 5. This provides that orders for extension may be revised by the court where the first order is no longer just and reasonable.

[9] Section 6. This provides for the trial of proceedings under the Act within thirty days, the determination thereof by the court within five days thereafter, the limitation of a stay to five days and the review thereof by the supreme court of the state by certiorari under certain circumstances.

[10] Section 7. This suspends all inconsistent laws until May 1st, 1935, and provides that no period of redemption shall be extended beyond that date.

[11] Section 8. This provides that the Act shall not apply to mortgages made after the passage of the Act, nor to mortgages made prior to its passage which are thereafter renewed or extended for a period ending more than one year after the passage of the Act (i. e., to May 18th, 1934).

[12] Section 9. This provides that the provisions of the Act are separable and that if one provision be found invalid, the other provisions shall not be affected thereby.

[13] Sections 10 and 11. These have to do with definitions of terms used in the Act.

[14] Part II. Paragraphs (15) to (23), inclusive.

[15] Section 1. This provides that Part II shall apply only to real estate occupied as a home exclusively by the persons seeking relief or persons dependent upon him and to farm lands used by the applicant for relief as his principal means of furnishing necessary support for himself, family and dependents, and shall apply only to cases not entitled to relief under some valid provision of Part I.

[16] Section 2. This is identical with Part I, Section 2 (Par. (3), supra), but applies to homesteads only and destroys the remedy of foreclosure by advertisement under power of sale in the mortgage, identically as Part I, Section 2.

[17] Section 3. Is identical with Part I, Section 3.2 (Par. (6), supra), but applies to homesteads only.

[18] Section 4. Is identical with Part I, Section 8 (Par. (11), supra), in its effect, thus making Part II inapplicable to mortgages made after the passage of the Act and to mortgages made prior thereto which were renewed or extended beyond May 18th, 1934.

[19] Section 5. Prohibits a postponement or extension which "under the temporary emergency would substantially diminish or impair the value of the contract or obligation of the person against whom the relief is sought, without reasonable allowance to justify the exercise of the police power hereby authorized."

[20] Section 6. Provides for the hearing of applications under Part II within twenty days, the order thereon by the court within five days, the limitation of a stay to five days and a review by the supreme court of the state by certiorari within thirty days under certain circumstances.

[21] Section 7. Provides that all provisions of the Act are separable and the invalidity of one shall not make other provisions invalid.

[22] Section 8. Provides its operation only until May 1st, 1935, and a prohibition of extensions or postponements beyond that date.

[23] Section 9. Prohibits the application of any of Part II to the provisions of Part I.

APPENDIX "C."

CONSTITUTION OF THE STATE OF MINNESOTA.

[1] ARTICLE 1.

BILL OF RIGHTS.

SEC. 2. RIGHTS AND PRIVILEGES OF CITIZENS.—No member of this state shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers. There shall be neither slavery nor involuntary servitude in the state otherwise than in the punishment of crime, whereof the party shall have been duly convicted.

[2] ARTICLE 4.

SEC. 27. LAWS TO EMBRACE BUT ONE SUBJECT.—No law shall embrace more than one subject, which shall be expressed in its title.

[3] ARTICLE 4.

SEC. 33. SPECIAL LEGISLATION PROHIBITED.—In all cases when a general law can be made applicable no special law shall be enacted; and whether a general law could have been made applicable in any case is hereby declared a judicial question, and as such shall be judicially determined without regard to any legislative assertion on that subject. * * *

APPENDIX "D."

STATUTES—MASON'S MINN. CODE, 1927.

[1] Sec. 9149. RECOVERY OF POSSESSION.—When any person holds over lands or tenements after a sale thereof on an execution or judgment, or on foreclosure of a mortgage and expiration of the time for redemption, or after termination of contract to convey the same, or after termination of the time for which they are demised or let to him or to the persons under whom he holds possession, or contrary to the conditions or covenants of the lease or agreement under which he holds, or after any rent becomes due according to the terms of such lease or agreement, or when any tenant at will holds over after the determination of any such estate by notice to quit, in all such cases the person entitled to the premises may recover possession thereof in the manner hereinafter provided.

[2] Sec. 9440. REDEMPTION OF REALTY.—Upon the sale of real property, where the estate sold is less than a leasehold of two years' unexpired term, the sale is absolute; in all other cases the property sold, or any portion thereof which has been sold separately, is subject to redemption:

1. By the judgment debtor, his heirs or assigns.

2. By a creditor having a lien, legal or equitable, on the property or some part thereof, subsequent to that on which it was sold.

Creditors shall redeem in the order of their respective liens.

[3] Sec. 9441. ORDER OF REDEMPTION, ETC.—Within one year after the day of sale the judgment debtor, his heirs or assigns, may redeem by paying to the purchaser the

amount for which the property was sold, with interest, and, if the purchaser be a creditor having a prior lien, the amount thereof, with interest. If no such redemption be made, the senior creditor may redeem within five days after the expiration of such year, and each subsequent creditor within five days after the time allowed all prior lienholders, by paying the aforesaid amount, and all liens prior to his own, held by the party from whom he redeems: Provided, that no creditor can redeem unless within such year he file notice of his intention so to do with the clerk of the court where the judgment is entered.

[4] Sec. 9572. MORTGAGEE NOT ENTITLED TO POSSESSION.—A mortgage of real property is not to be deemed a conveyance, so as to enable the owner of the mortgage to recover possession of the real property without a foreclosure.

[5] Sec. 9602. LIMITATION.—Every mortgage of real estate heretofore or hereafter executed, containing a power of sale, upon default being made in any condition thereof, may be foreclosed by advertisement within fifteen years after the maturing of such mortgage or the debt secured thereby, in the cases and in the manner hereinafter specified. Said fifteen years shall not be extended by reason of any nonresidence, or of any payment made or applied upon such debt after its maturity.

[6] Sec. 9603. REQUISITES FOR FORECLOSURE.—To entitle any party to make such foreclosure, it is requisite:

1. That some default in a condition of such mortgage has occurred, by which the power to sell has become operative.

2. That no action or proceeding has been instituted at

law to recover the debt then remaining secured by such mortgage, or any part thereof, or, if the action or proceeding has been instituted, that the same has been discontinued, or that an execution upon the judgment rendered therein has been returned unsatisfied in whole or in part.

3. That the mortgage has been recorded, and, if it has been assigned, that all assignments thereof have been recorded: Provided that, if the mortgage is upon registered land, it shall be sufficient if the mortgage and all assignments thereof have been duly registered.

[7] Sale until Notice of Sale. Service on Owner. Six weeks' published notice shall be given that such mortgage will be foreclosed by sale of the mortgaged premises or some part thereof, and at least four weeks before the appointed time of sale a copy of such notice shall be served in like manner as a summons in a civil action in the district court upon the person in possession of the mortgaged premises, if the same are actually occupied. If there be a building on such premises used by a church or religious corporation, for its usual meetings, service upon any officer or trustee of such corporation shall be a sufficient service upon it.

[8] See what Recitals or Notice. Each notice shall specify:

1. The name of the mortgagor and of the mortgagee, and of the assignee of the mortgage, if any;

2. The date of the mortgage, and when and where recorded, except where the mortgage is upon registered land, in which case the notice shall state that fact, and when and where registered;

3. The amount claimed to be due thereon, and taxes, if any, paid by the mortgagee at the date of the notice;

4. A description of the mortgaged premises, conforming substantially to that contained in the mortgage; and

5. The time and place of sale.

[9] Sec. 9006. Attorney to foreclose. Record of power. Whenever an attorney at law is employed to conduct such foreclosure, his authority shall appear by power of attorney executed and acknowledged by the mortgagee or assignee of the mortgage in the same manner as a conveyance, and recorded prior to the sale in the county where the foreclosure proceedings are had. If such attorney be employed on behalf of such mortgagee or assignee by an attorney in fact, his authority shall likewise be evidenced by recorded power.

[10] Sec. 9007. Sale, How and by Whom Made. The sale shall be made by the sheriff or his deputy at public vendue to the highest bidder, in the county in which the premises to be sold, or some part thereof, are situated, between 9 o'clock a. m. and the setting of the sun.

[11] Sec. 9008. Postponement. Such sale may be postponed from time to time by inserting a notice of such postponement, as soon as practicable, in the newspaper in which the original advertisement was published, and continuing such publication until the time to which the sale is postponed, at the expense of the party requesting the same.

[12] Sec. 9009. Separate Tracts.—If the mortgaged premises consist of separate and distinct farms or tracts, they shall be sold separately, and no more farms or tracts shall be sold than are necessary to satisfy the amount due on such mortgage at the date of notice of such sale, with interest, taxes paid, and costs of sale.

[13] Sec. 9810. Foreclosure for Installments. By Advertisement or by Action. Sales. Disposition of Proceeds. Redemption. Where a mortgage is given to secure the payment of money by installments, each installment either for principal or interest, or both, as is due at any time, may be taken and deemed to be a separate and independent mortgage and such mortgage for each such installment may be foreclosed by advertisement or by action, in the same manner and with like effect as if a separate mortgage were given for each of such installments, and such foreclosure may be made and sale had subject to the installments yet to become due upon the mortgage; and a redemption from any such sale shall have the like effect as if the sale for such installment had been made upon an independent subsequent mortgage; provided in such cases, the attorney's fee on the foreclosure so made shall not exceed the amount permitted by law in case of a mortgage securing the amount of the debt then due on such foreclosure. The proceeds of the sale shall be applied first in payment of the costs of the foreclosure sale, and of the installment due with interest thereon, taxes and insurance premiums paid, if any, and then towards the payment of the residue of the sum secured by such mortgage, and not due and payable at the time of such sale; and if such residue does not bear interest such application shall be made with rebate of the legal interest for the time during which the residue shall not be due and payable; and the surplus, if any, shall be paid to the subsequent lienors, if any, in the order of their priority, and then to the owner of the equity of redemption, his legal representatives or assigns. In case of redemption from any sale herein authorized, at the option of the redemptioner, the whole amount remaining unpaid on the mortgage, with interest and other items, if any, which have become part of

the amount secured by the lien of the mortgage, may be included in the amount paid on redemption, and in such event the redemption so made shall have like effect as if the foreclosure sale had been made for the entire amount secured by the mortgage, including such additional items.

Before any sale herein authorized the holder of the mortgage shall file with the sheriff a verified itemized statement in writing, showing the entire amount remaining unpaid on the mortgage, including taxes and insurance premiums paid and other items which have become part of the amount secured, and the rate of interest to accrue on same, which statement shall be subject to public inspection and shall be read by the sheriff at the sale, immediately after reading the notice of sale. The certificate of sale shall set forth correctly, in addition to the amount of sale, the remaining amount still unpaid on and secured by the mortgage, subject to which the sale is made, and the rate of interest to accrue on same. And if, during the time to redeem from the sale, any additional or other item, other than interest at the rate so stated in the certificate, shall attach to said amount subject to which the sale was made, or any change shall occur in such amount or the rate of interest thereon, the facts with respect thereto shall be set forth by affidavit made and filed for record, and a copy furnished the sheriff, in accordance with the provisions of Section 9648, General Statutes, 1923, and the provisions of said section shall apply thereto.

[14] Sec. 9611. SURPLUS.—In all cases not provided for in Sec. 9610, if after sale of any real estate, made as herein prescribed, there remains in the hands of the officer making the sale any surplus money, after satisfying the mortgage, with interest, taxes paid, and costs of sale, the

surplus shall be paid over by such officer, on demand, to the mortgagor, his legal representatives or assigns.

[15] Sec. 9812. Mortgagee, etc., May Purchase. The mortgagee, his assignees, or his or their legal representatives, may fairly and in good faith purchase the premises so advertised, or any part thereof, at such sale.

[16] Sec. 9813. Certificate of Sale; Record; Effect. Whenever any sale of real property is made under a power of sale contained in any mortgage, the officer shall make and deliver to the purchaser a certificate, executed in the same manner as a conveyance, containing:

1. A description of the mortgage.
2. A description of the property sold.
3. The price paid for each parcel sold.
4. The time and place of the sale, and the name of the purchaser.
5. The time allowed by law for redemption.

Such certificate shall be recorded within twenty days after such sale, and when so recorded, upon expiration of the time for redemption, shall operate as a conveyance to the purchaser or his assignee of all the right, title and interest of the mortgagor in and to the premises named therein at the date of such mortgage, without any other conveyance whatever.

[17] Sec. 9828. Redemption by Mortgagor. When lands have been sold in conformity with the preceding sections of this chapter, the mortgagor, his personal representatives or assigns, within twelve months after such sale, may redeem such lands, as hereinafter provided, by paying the sum of money for which the same were sold, with interest from the time of sale at the rate provided to be paid on the

mortgage debt, not to exceed ten per cent per annum, and, if no rate be provided in the mortgage, at the rate of six per cent, together with any further sums which may be payable pursuant to Sec. 9648.

[18] Sec. 9650. Effect of Redemption. If redemption is made by the owner of the property sold, his heirs, personal representatives, or assigns, such redemption annuls the sale; if by a creditor holding a lien on the property or some part thereof, the certificate of redemption, executed, acknowledged and recorded as provided in Sec. 9629, operates as an assignment to him of the right acquired under such sale, subject to such right of any other person to redeem as provided by law.

[19] Sec. 9643. Redemption by Mortgagor, Creditor, etc. The mortgagor, or those claiming under him, within one year after the date of the order of confirmation, may redeem the premises sold, or any separate portion thereof, by paying the amount bid therefor, with interest thereon from the time of sale at the rate provided to be paid on the mortgage debt, not to exceed ten per cent per annum, and, if no rate be provided in the mortgage, at the rate of six per cent, together with any further sum which may be payable pursuant to Section 9648. Creditors having a lien may redeem in the order and manner in this Chapter hereinbefore specified, but no creditor shall be entitled to redeem unless within said year he files with the clerk notice of his intention to redeem.

[20] Sec. 9644. Delivery of Possession.—When possession of lands is wrongfully withheld after expiration of the time of redemption, the court may compel delivery of possession to the party entitled thereto by order directing the sheriff to effect such delivery.

APPENDIX "E."

STATISTICS OF BUILDING INSPECTION DEPARTMENT, CITY OF MINNEAPOLIS, MINNESOTA.

		Number of Permits	Dollar Volume of Construction
Five months of	1932	2059	$2,421,780.
May, June, July,	1933	1790	1,564,895.
Aug. and Sept.	Decrease	269	856,885.
(Act passed	Decrease in	23%	36%
April 18, 1933)	Percentage		

APPENDIX "F."

STATISTICS OF DODGE REPORTS SERVICE, ENTIRE STATE OF MINNESOTA.

		Dollar Volume of Construction
Four months of May,	1932	$7,979,200.00
June, July and August,	1933	6,487,500.00
(Act passed	Decrease	1,491,700.00
April 18, 1933)		